

COMPARATIVE SUMMARY OF THE ATLANTA LIVING WAGE ORDINANCE

The proposed Atlanta Living Wage Ordinance (“Atlanta Ordinance”) is designed to require certain businesses doing business with the City to pay a “living wage.” We analyzed the proposed Atlanta Ordinance and compared it to ordinances from fourteen comparably sized cities; Chicago, Baltimore, Denver, Pittsburgh, Detroit, San Francisco, Minneapolis, Boston, Cincinnati, St. Louis, Cleveland, Los Angeles, Portland and New York. With the Independent Review Commission’s needs in mind, we identified main areas for comparison. Those areas include: to which businesses the ordinance applies, whether the ordinance applies to subcontracts and subtenants, what the actual wage is, whether there are vacation requirements, which businesses are exempt, what the enforcement tools are and whether pay equity provisions are included in the ordinance. Below is a summary of how we found the proposed Atlanta Ordinance compares to similar ordinances of comparably sized cities.

The Atlanta Ordinance applies to all businesses, including nonprofits, contracting with the City that have at least fifteen employees and an annual contract or contracts that total \$25,000 per year. The Atlanta Ordinance also applies to companies receiving grants or loans of at least \$50,000 per year; all City leases; all companies doing business at Hartsfield-Jackson International Airport; all subcontractors working on a City contract; and subtenants residing in a building subject to a City lease or residing in a building subject to a City grant.

The Atlanta Ordinance is the broadest of the ordinances we analyzed. Eight of the ordinances we analyzed have an employee threshold of fewer than fifteen employees. None of those eight ordinances, however, apply to City grants, loans, leases, subcontracts or subtenants. The St. Louis ordinance does apply to similar City benefits as the Atlanta Ordinance. However, the dollar threshold for St. Louis’ ordinance is \$50,000 per year for contracts and \$20,000,000 per year in City financial assistance, including grants and loans. The remaining ordinances either restrict the ordinance to express classes of contracts (e.g., security guards, parking attendants, cashiers, custodial workers, etc.) and/or have higher thresholds for minimum number of employees and contract dollar amounts. Six other ordinances include nonprofits but each has a higher threshold than \$50,000.

As mentioned above, the Atlanta ordinance specifically applies to Hartsfield-Jackson International Airport. Only San Francisco, Los Angeles and St. Louis apply to their airports.

The San Francisco ordinance applies to airport leases greater than 29 days in length. The Los Angeles ordinance applies to businesses whose gross revenues from business conducted on City property is greater than \$350,000. St. Louis is subject to the higher threshold dollar amounts described above.

The Atlanta Ordinance has the highest compensation package of all cities in the comparison.¹ The hourly wage for the Atlanta Ordinance is \$10.50 if health benefits are included and \$12.00 without benefits. The Atlanta Ordinance also requires employers to provide twelve days of paid vacation and ten days of unpaid time off. Only San Francisco and Los Angeles have similar vacation requirements.

The Atlanta Ordinance applies to all employees who receive gratuities or tips as part of their compensation package (“tipped employees”). Under the Atlanta Ordinance, employees such as bartenders, waiters and skycaps, who are all tipped employees, are treated no differently than other hourly employees. Every other ordinance that applies to tipped employees discounts the hourly rate, either by a fixed percentage or in proportion to the tips received.

The Atlanta Ordinance contains a pay equity provision. The pay equity provision provides that where a job is occupied by more than 75% of one gender, then the covered employer must pay the genders equally in that job. No other ordinance contains a similar provision.²

Overall, the Atlanta Ordinance has a higher wage and covers more employers than any other ordinance in the comparison group. However, we did not conduct an exhaustive review of every provision in every ordinance. Further, we analyzed the ordinances based on their language, not their impact. Therefore, we do not know whether the lower threshold for inclusion of businesses under the Atlanta Ordinance actually implicates a greater number of businesses than in other cities.

¹ This comparison is based on the hourly wage without taking into consideration differences in cost of living.

² We did not research whether the comparison cities had similar ordinances separate from their Living Wage Ordinances.

	Atlanta	Chicago	Baltimore	Denver	Pittsburgh
Min. # Employees	15	25	No Minimum	No Minimum	10- profit, 25- nonprofit
Which Businesses	\$25K	Security guards, parking attendants, day laborers, home and health care workers, cashiers, elevator operators, custodial	Service Contracts	Parking attendant, security guard, child care worker, clerical worker in public bldg. or lot owned by City. Direct Service >\$2K	\$10K for contract, \$75K for subcontract
Offsite	Yes	No	No	No	Direct Employees
Grants	\$50K	No	No	No	\$50K
Loans	\$50K	No	No	No	\$50K
City Lease	Yes	No	No	No	Yes
Airport	Yes	No	No	No	No
Subcontracts	Yes	Yes	Yes	Yes	Yes
Subtenants	Yes	No	No	No	Yes
Wage	\$10.50 w/benefits/\$12.00 w/o	\$9.50	\$8.70	Poverty line as established under 42 USC § 9902(2)	\$9.12 w/benefits / \$10.62 w/o (2001) / CPI
Vacation/Leave	12 w/pay, 10 w/o	No	No	No	No
Pay Equity	Yes	No	No	No	No
Waivers or Exemptions	Construction services under other state/federal law, under 18 yrs., some summer and training or internship programs	Nonprofits	Construction Contracts	Supportive or ancillary services, supervisory or management personnel, City concessionaires, City's youth employment programs	Discretionary
Union/Collective Bargaining Exemption	Yes	No	No	No	Yes
Enforcement	City Compliance Official	Chief Procurement Officer/Ineligibility	Board of Estimates & Wage Commission	Mayor's Office	Living Wage Board
Penalties	Fine/Debarment/Civil/Criminal	Debarment	Penalties, Debarment and Criminal	None	Sanctions, Criminal

	Detroit	San Francisco	Minneapolis	Boston	Cincinnati
Min. # Employees	No Minimum	20	20	25- profit, 100- nonprofit	No minimum
Which Businesses	\$50K- Contractor or service provider	\$25K- profit, \$50K- nonprofit	\$25K	\$100k	\$20K
Offsite	No	No	Direct Employees	Direct Employees	Direct Employees
Grants	\$50K	Yes	Yes	\$100K	Yes, for services to City
Loans	\$50K	Yes	Yes	\$100K	No
City Lease	Yes	If under S.F. Airport Commission	No	No	No
Airport	No	Yes if lease is >29 days	No	No	No
Subcontracts	Yes	Yes	Yes	\$25K	Yes
Subtenants	No	No	No	No	No
Wage	At poverty level w/benefits, 125% of poverty level w/o	\$10.77- profit, \$9.00 Non-profit/government	100% Federal Poverty w/ benefits, 110% w/o	Highest of 116% poverty level, or 110% of federal/state minimum wage	\$8.70w/ benefits, \$10.20 w/o, adjusted with federal poverty guidelines
Vacation/Leave	No	12 days paid/10 days unpaid	No	No	No
Pay Equity	No	No	No	No	No
Waivers or Exemptions	No	Products/goods, land leases, <18 years of age, some nonprofits	Community Development Corporations/Banks, Businesses in their 1st yr, Redevelopment Projects	Job Training Programs, Work/Study or Coop., Construction Contracts	City job training, some nonprofit, discretionary waivers
Union/Collective Bargaining Exemption	No	Yes	No	No	Yes
Enforcement	The City	Office of Contract Administration (OCA)	Minneapolis Community Development Agency	Living Wage Advisory Commission	City Manager
Penalties	Penalties, Debarment	Debarment, withholding payment/cancel contract	Loan Acceleration, interest rate increase, Debarment	Back-pay, fines, filing of a complaint, contract, debarment.	Suspension/termination of contract, Debarment

	St. Louis	Cleveland	Los Angeles	Portland	New York
Min. # Employees	No Minimum	20- profit, 50- nonprofit	5	No Minimum	No Minimum
Which Businesses	\$50K	\$25K	\$100K	Janitorial, security, and parking attendant services	Certain service contracts
Offsite	Direct Employees	Direct Employees	Yes	No	Direct Employees
Grants	\$20,000,000	\$75K	Yes	No	No
Loans	\$20,000,000	If discounted below market rate	Forgiveness only	No	No
City Lease	Yes	No	Yes, if \$350K and 7 employees	No	No
Airport	Yes	No	Yes, if \$350K and 7 employees	No	No
Subcontracts	Yes	Yes	Yes	No	City Service
Subtenants	Yes	Yes	Yes	No	No
Wage	130% of the Federal Poverty Guidelines w/ benefits	CPI for NE Ohio	\$7.39 w/ benefits, \$8.64 w/o	\$8.00 w/benefits, \$9.50 w/o (2001) adjusted with CPI	\$9.10 w/ benefits, \$10.60 w/o
Vacation/Leave	No	City incentives if offered	12 days paid/10 days unpaid	No	No
Pay Equity	No	No	No	No	No
Waivers or Exemptions	Some human and social service providers	Nonprofits, under 18 years of age, hardship	Some City financial assistance recipients	No	Homecare, after school/summer employees, nonprofits
Union/Collective Bargaining Exemption	Yes	Yes	No	No	Yes
Enforcement	The City Compliance Official (CCO)	Fair Employment Wage Board	Designated Administrative Agency	Bureau-based individual responsible for compliance	Comptroller
Penalties	Contract suspension/termination, debarment, fines	Penalties, debarment, cancellation of contract	Court action, back pay, damages and costs, debarment, penalties	None listed	Penalties, debarment

Chicago

Minimum No. of Employees: 25

Businesses: Listed service contractors only

Offsite: No

Grants: No

Loans: No

City Lease: No

Airport: No

Subcontracts: Yes

Subtenants: No

Wage: \$9.50/hr.

Vacation/Leave: No

Pay Equity: No

Waivers or Exemptions: Nonprofits

Union/Collective Bargaining Exemption: Yes

Enforcement: Chief Procurement Officer

Penalties: Debarment

Summary of Ordinance:

The City of Chicago's living wage ordinance applies only to full-time non-City employed: security guards, parking attendants, day laborers, home and health care workers, cashiers, elevator operators, custodial workers and clerical workers. The ordinance expressly exempts not-for-profit organizations. The ordinance only applies to those contractors with 25 or more full time employees. There is no minimum contract amount for the ordinance to apply. The base wage is currently \$9.05 per hour. The wage is adjusted each July 1 according to the federal poverty guidelines for a family of four as published by the United States Department of Health and Human Services. There are no health benefit or vacation requirements. The Chief Procurement Officer promulgates rules and regulations to implement the ordinance. Contractors who violate this ordinance are ineligible to contract with the City of Chicago.

Baltimore

Minimum No. of Employees: No Minimum

Businesses: Service Contracts

Offsite: No

Grants: No

Loans: No

City Lease: No

Airport: No

Subcontracts: Yes

Subtenants: No

Wage: \$8.70/hr.

Vacation/Leave: No

Pay Equity: No

Waivers or Exemptions: Nonprofits

Union/Collective Bargaining Exemption: No

Enforcement: Board of Estimates & Wage Commission

Penalties: \$50/day/Employee, Debarment, Criminal

Summary of Ordinance:

The City of Baltimore's living wage ordinance is very narrow in scope. It applies only to contracts designated by the Board of Estimates on the recommendation of the City Purchasing Agent as a service contract. The ordinance does apply to subcontracts. The wage is currently \$8.70 per hour with no requirements for health benefits or vacation. The hourly rate is adjusted annually based on the federal poverty level for a family of four. The only express exemption is for construction contracts, which are regulated under another ordinance.

Denver

Minimum No. of Employees: No minimum

Businesses: Parking attendant, security guard, child care worker, clerical worker in public bldg. or lot owned by City. Direct Service > \$2K

Offsite: No

Grants: No

Loans: No

City Lease: No

Airport: No

Subcontracts: Yes

Subtenants: No

Wage: Poverty line as established under 42 USC § 9902(2)

Vacation/Leave: No

Pay Equity: No

Waivers or Exemptions: Supportive or ancillary services, supervisory or management personnel, City concessionaires, City youth employment programs

Union/Collective Bargaining Exemption: No

Enforcement: Mayor's Office

Penalties: None

Summary of Ordinance:

The City of Denver's living wage ordinance applies to all direct service contracts with the City in the work of a parking lot attendant, security guard, or child care worker at any public building or public parking facility owned by the City, or clerical support. The requirements apply to each direct service contract over \$2,000. This is a per contract amount, not an annual aggregate amount. The requirements apply to subcontracts as well. The wage is equal to the poverty guideline for a family of four under 42 U.S.C. § 9902(2) for a forty hour week. There are no health benefit or vacation requirements. The ordinance exempts support services, management personnel, City concessionaires and the City's youth employment programs. There are reporting requirements for covered employers. The Mayor's office assesses the impact of the ordinance on an annual basis. There are no penalty provisions.

Pittsburgh

Minimum No. of Employees: 10-profit, 25 nonprofit	Businesses: \$10K for contract, \$75K for subcontract
Offsite: Direct Employees	Grants: \$50K
Loans: \$50K	City Lease: Yes
Airport: No	Subcontracts: Yes
Subtenants: Yes	Wage: \$9.12 with benefits/ \$10.62 w/o (2001) CPI
Vacation/Leave: No	Pay Equity: No
Waivers or Exemptions: Discretionary	Union/Collective Bargaining Exemption: Yes
Enforcement: Living Wage Board	Penalties: Sanctions/criminal

Summary of Ordinance:

The City of Pittsburgh's living wage ordinance applies to the City, City contractors, subcontractors and beneficiaries of tax, loan, grant and subsidy assistance or abatements provided by the City. The ordinance applies to for-profit businesses with greater than 10 employees, and non-profit businesses with greater than 25 employees. The ordinance applies to grants, loans and other assistance greater than \$50,000 annual aggregate. The ordinance applies to contracts or subcontracts with the City whose annual aggregate is greater than \$10,000. If the beneficiary of a City contract or subcontract then awards a contract or subcontract the ordinance applies if the value is greater than \$5,000. The ordinance applies to all leases, rental agreements, subleases and sublicenses, provided that the services are rendered on property visited by substantial numbers of the public (e.g., parking facilities, transportation facilities, and public sports and entertainment venues.) The living wage is currently \$9.12/hr. with health benefits and \$10.62/hr. without health benefits. The living wage is adjusted for tipped employees in compliance with Internal Revenue Service standards. The living wage is adjusted annually by an amount equal to the increase in the Annual Average Consumer Price Index for All Urban Consumers, Pittsburgh, as published by the Bureau of Labor Statistics, United States Department of Labor. There is a phase-in period for non-profit organizations, start-up businesses and Disadvantaged Business Enterprises. The Living Wage Board administers and enforces the ordinance. Penalties for noncompliance include debarment, sanctions and criminal investigations. The City Council may grant exemptions. Summer, intern, seasonal and job training employees are exempt.

Detroit

Minimum No. of Employees: No minimum

Offsite: No

Loans: \$50K

Airport: No

Subtenants: No

Vacation/Leave: No

Waivers or Exemptions: No

Enforcement: The City

Businesses: \$50K –contractor or service provider

Grants: \$50K

City Lease: Yes

Subcontracts: Yes

Wage: At poverty level w/benefits, 125% of poverty level w/o

Pay Equity: No

Union/Collective Bargaining Exemption: No

Penalties: Penalties, debarment

Summary of Ordinance:

The City of Detroit's living wage ordinance applies to all service contracts with the City exceeding \$50,000. This includes any subcontractor. The ordinance also applies to any City financial assistance exceeding \$50,000. The requirements only apply to those employees employed at a job site covered by the contract or financial assistance. The wage is 100% of the federal poverty level for a family of four if health benefits are provided. If health benefits are not provided the wage is 125% of the federal poverty level. The ordinance encourages covered businesses to attempt to fill new positions with residents of the City of Detroit. The City of Detroit enforces the ordinance. Penalties for violation include debarment and fines. This ordinance also creates a private cause of action.

San Francisco

Minimum No. of Employees: 20

Businesses: 25K-profit, 50K- nonprofit

Offsite: No

Grants: Yes

Loans: Yes

City Lease: If under S.F. Airport Commission

Airport: Yes if lease term >29 days

Subcontracts: Yes

Subtenants: No

Wage: \$10.77-profit, \$9.00 nonprofit/government

Vacation/Leave: 12 days paid/10 unpaid

Pay Equity: No

Waivers or Exemptions: Products/goods
land leases, < 18 yrs of age, some nonprofit

Union/Collective Bargaining Exemption: Yes

Enforcement: Office Contract Admin

Penalties: Debarment, withholding payment/cancel
contract

Summary of Ordinance:

The City of San Francisco's Minimum Compensation Ordinance (MCO) applies to contractors that employ at least 21 employees whose contracts exceed \$25,000 for profit, \$50,000 non-profit. The wage is \$10.51/hour for profit, \$9.00/hour non-profit. Full-time covered employees receive 12 days paid vacation annually, proportional to the time spent working on the City contract. Paid holidays count toward the 12 days. Employees receive 10 days unpaid time off annually, proportional to the time spent working on the City contract. The MCO applies to airport leases and subcontracts. There are numerous exemptions including: (1) contracts for the purchase of products/goods, (2) leases for land not under the jurisdiction of the Airport Commission, (3) contracts w/ public entities whose boundaries are not coterminous w/ SF (4) if the cumulative amount of compensation is less than \$25,000 (for corporations) or \$50,000 for non-profits in any fiscal year, as well as (5) employees that are under the age of 18, claimed as a dependent, and employed as an after school/summer employee (6) employees participating in training programs (7) disabled workers as long as they are covered by a current sub-minimum wage certificate or would be covered, but for the fact that the Contractor is paying wages equal to or higher than the minimum wage (8) volunteers. Non-profit contracts that are receiving grant or special funds for services may also be exempt. Contractors maintain payroll records and may have to submit periodic compliance reports. The Office of Contract Administration (OCA) monitors and enforces compliance. If a contractor is found in non-compliance, the OCA may pursue any of the following remedies: (1) w/holding of contract payments, (2) termination of the contract, (3) debarment from future City agreements, leases, licenses for 3 years, and/or (4) any other remedy that may be available.

Minneapolis

Minimum No. of Employees: 20

Businesses: \$25K

Offsite: Direct employees

Grants: Yes

Loans: Yes

City Lease: No

Airport: No

Subcontracts: Yes

Subtenants: No

Wage: 100% Federal poverty w/ benefits, 110% w/o

Vacation/Leave: No

Pay Equity: No

Waivers or Exemptions: Community development corporations/banks, businesses in their first yr, redevelopment projects

Union/Collective Bargaining Exemption: No

Enforcement: Minneapolis Community Development Agency

Penalties: Loan acceleration Penalties, debarment

Summary of Ordinance:

The City of Minneapolis' living wage ordinance applies to all businesses receiving more than \$25,000 in City assistance and that participate in economic development projects financed by the Minneapolis Community Development Agency (MCDA). This includes loans and grants. If basic health insurance is not included, employers are required to pay 110% of the federal poverty guidelines for a family of four, \$9.73/hour (for 2003). If basic health insurance is included, employers are required to pay 100% of the same federal poverty guidelines, \$8.85 (for 2003). Businesses are also required to create or retain one full-time living wage job per \$35,000 of assistance, and ensure that 60% of new hires are City residents. However, there are the following exemptions: (1) small businesses (typically w/ 20 employees or fewer, and had no more than \$1,000,000 annual gross revenues in the preceding fiscal year; 2,500,000 if a technical or professional service) (2) community development corporations/banks (3) new businesses in their first year (4) redevelopment projects, and (5) cumulative assistance package totals less than \$25,000 in any one fiscal year. All employers must submit a quarterly wage detail report on an annual basis until the wage/job goals are met, as well as an affidavit certifying any new hires and the City in which they reside. Non-compliance w/ the living wage policy results in a default and remedies may include: (1) accelerating the loan, or (2) increasing the interest rate on City financing to the market rate, (3) pro-rated repayment of the assistance w/in one year, (4) temporary or permanent debarment, or (5) denial of any future opportunities for additional City assistance.

Boston

Minimum No. of Employees: 25-profit, 100-nonprofit	Businesses: \$100K
Offsite: Direct employees	Grants: \$100K
Loans: \$100K	City Lease: No
Airport: No	Subcontracts: \$25K
Subtenants: No	Wage: Highest of 116% poverty level, or 110% of federal/state minimum wage
Vacation/Leave: No	Pay Equity: No
Waivers or Exemptions: Job training programs, Work study or Coop., Construction contracts	Union/Collective Bargaining Exemption: No
Enforcement: Living Wage Advisory Commission	Penalties: Back-pay, fines, filing of a complaint, contract, debarment

Summary of Ordinance:

The City of Boston has a "Boston Jobs and Living Wage Ordinance". It applies to both beneficiaries and covered vendors. For profits that employ at least 25 FTE's and received at least \$100,000 in assistance from the City, and not-for-profits that employ at least 100 FTE's and receive at least \$100,000 from the City are both considered beneficiaries. For profits and/or not-for-profits that employ at least 25 FTE's and have been awarded a service contract/sub-contract are considered covered vendors. This ordinance applies to both grants and loans if they are valued at \$100,000 or more. The wage is \$10.25/hour. However, there are the following exemptions: (1) construction contracts awarded by the City that are subject to the State prevailing wage, (2) assistance/contracts awarded to youth programs, (3) assistance/contracts awarded to work-study or cooperative educational programs (provided the assistance is for student stipends), (4) and assistance/contracts to vendors who provide trainees a stipend/wage as a part of a job training program (in addition to other services such as room and board, case management, job readiness, etc). Waivers, including hardship waivers, may also be granted. Each employer must maintain payroll records and other basic related records for all covered employees, as well as providing quarterly reports on their employment activities. If found in violation, an employer may face the following remedial measures/penalties: (1) ordering back-pay to covered employees for non-compliance, (2) \$300/day fine for each covered employee for each day the employer is in violation of the ordinance, (3) filing of a complaint (either state or federal), (4) wage restitution for each affected employee, (5) suspension of ongoing contracts and subcontract payments, (6) ineligibility for future contracts, and/or (7) any other action deemed appropriate.

Cincinnati

Minimum No. of Employees: No minimum

Businesses: \$20K

Offsite: Direct employees

Grants: Yes, for services to City

Loans: No

City Lease: No

Airport: No

Subcontracts: Yes

Subtenants: No

Wage: \$8.70 w/benefits, \$10.20 w/o, adjusted with federal poverty guidelines

Vacation/Leave: No

Pay Equity: No

Waivers or Exemptions: City job training, some nonprofit, discretionary waivers

Union/Collective Bargaining Exemption: Yes

Enforcement: City Manager

Penalties: Suspension/termination of contract, debarment

Summary of Ordinance:

The City of Cincinnati's living wage ordinance applies to all contractors that enter into a service contract with the City of at least \$20,000. These contractors are required to pay their employees \$8.70/hour with health care benefits or \$10.20/hour without health care benefits. The ordinance applies to all subcontracts as well as grants that involve the furnishing of services to/for the City. There are exemptions for employees that are trainees in a job training program which meets City job training standards or employees that are under 21 years of age, or employed by a nonprofit for after school/summer employment or as a trainee for a period no longer than 90 days. In addition, waivers can be granted upon a finding/determination that it would be in the best interest of the City and/or the balance of competing interests weighs clearly in favor of granting a waiver. The City manager shall monitor, investigate and enforce compliance with the ordinance. If a contractor is found in violation of the ordinance the following penalties may apply: (1) suspension and/or termination of the contract, (2) payback of any/all of the contract, (3) deem the contractor ineligible for future City contracts and/or financial assistance until all penalties and restitution have been paid in full.

St. Louis

Minimum No. of Employees: No minimum	Businesses: \$50K
Offsite: Direct employees	Grants: \$20,000,000
Loans: \$20,000,000	City Lease: Yes
Airport: Yes	Subcontracts: Yes
Subtenants: Yes	Wage: 130% of the Federal Poverty Guidelines w/ benefits
Vacation/Leave: No	Pay Equity: No
Waivers or Exemptions: Some human and social service providers	Union/Collective Bargaining Exemption: No
Enforcement: City Compliance Official (CCO)	Penalties: Contract suspension/termination, debarment, fines

Summary of Ordinance:

The St. Louis living wage ordinance applies to businesses who contract with the City or receive financial assistance. The ordinance applies to businesses with greater than \$50,000 annual aggregate of City contracts. There is no minimum employee number requirement. The ordinance also applies to any party to a written agreement with the St. Louis Airport Commission, the City of St. Louis, or any City Agency, including any lease, concession, franchise or easement. The written agreement portion applies to those parties where the total value of the agreement is greater than \$50,000 annual aggregate. The ordinance applies to City Financial Assistance Recipients, however the value of the assistance must exceed \$20,000,000 over the term of the assistance. Financial Assistance includes federal grants, tax increment financing, revenue bond financing, tax abatements, tax credits, grants, loans, or any other form of financial assistance. The ordinance applies to all subcontracts and subleases. Not-for-profit organizations that provide social or human services for disadvantaged residents are exempt. The wage is 130% of the Federal Poverty Guidelines for family of three if health benefits are provided. If there are no health benefits, the contractor must pay its employees an hourly wage equal to the sum of the living wage plus the prevailing fringe benefits rate defined by the City. Tipped employees are paid no less than 50% of the non-tipped employee. The City Compliance Officer enforces the ordinance. Penalties for nonconformance include suspension of the contract, lease or other agreement, debarment and damages.

Cleveland

Minimum No. of Employees: 20-profit, 50 nonprofit

Businesses: \$25K

Offsite: Direct Employees

Grants: \$75K

Loans: If discounted below market rate

City Lease: No

Airport: No

Subcontracts: Yes

Subtenants: Yes

Wage: CPI for NE Ohio

Vacation/Leave: City incentives if offered

Pay Equity: No

Waivers or Exemptions: Nonprofits,
under 18 yrs of age, hardship

Union/Collective Bargaining Exemption: Yes

Enforcement: Fair Employment Wage Board

Penalties: Penalties, debarment, cancellation of
contract

Summary of Ordinance:

The City of Cleveland's living wage ordinance applies to businesses with greater than 20 employees for profit, 50 nonprofit. The ordinance applies to service contracts valuing at least \$25,000 annual aggregate. The ordinance also applies to recipients of financial assistance valuing at least \$75,000 annual aggregate. A service contract is limited to the following services: food service, janitorial, security services, parking lot attendants, home health care aides, waste management, automotive repair services, landscaping, towing contracts, building and maintenance services, carpentry, clerical services, urban forestry, housekeeping, street maintenance and repair, and sidewalk maintenance and repair. The wage was \$9.20 per hour in October, 2002. It is adjusted annually by the City of Cleveland in proportion to the Consumer Price Index for Northeast Ohio, as published by the Bureau of Labor Statistics, U.S. Department of Labor. The hourly wage for tipped employees is discounted by the amount of compensation received in tips. The ordinance applies to subcontracts and subtenants. There are no express health care requirements. However, the City will consider service contractors who provide health care benefits favorably when making a determination of the lowest responsible bid. Some nonprofits are exempt as are all persons under 18 years of age and job training program attendees. Hardship exemptions are available. The Fair Employment Wage Board reviews and administers the ordinance. Penalties for noncompliance include withholding of payments, termination, suspension or cancellation of a contract, debarment and filing a complaint with the pertinent federal agency.

Los Angeles

Minimum No. of Employees: 5	Businesses: \$100K
Offsite: Yes	Grants: Yes
Loans: Forgiveness only	City Lease: Yes, if \$350K and 7 employees
Airport: Yes, if \$350K and 7 employees	Subcontracts: Yes
Subtenants: Yes	Wage: \$7.39 w/benefits, \$8.64 w/o
Vacation/Leave: 12 days paid, 10 days unpaid	Pay Equity: No
Waivers or Exemptions: Some City financial assistance recipients	Union/Collective Bargaining Exemption: No
Enforcement: Designated Administrative Agency	Penalties: Court action, back pay, damages and costs, debarment, penalties

Summary of Ordinance:

The Los Angeles Living Wage ordinance requires employers to pay employees a wage of no less than \$7.39 per hour with health benefits and \$8.64 without. Those rates are adjusted annually to correspond with adjustments to retirement benefits paid to members of the Los Angeles City Employees Retirement System. Employers must provide at least twelve compensated days off per year. “Employers” include any person who is a City financial assistance recipient (receives from the City financial assistance in the amount of \$100,000 or more in any twelve-month period – if receives more than \$1 million, must be in compliance for five years; if receives \$100,000 to \$1 million, must be in compliance for one year)(includes bond financing, planning assistance, tax increment financing exclusively by the City, and tax credits but does not include loans, unless the amount of the loan and is greater than the present value of its payments), contractor, subcontractor, public lessee, public sublessee, public licensee, or public sublicensee and who is required to have a business tax registration under the Los Angeles Municipal Code. An aggrieved employee may bring an action in Municipal or Superior Court and can be awarded back pay, difference between the wage required without benefits and the wage with benefits, reinstatement (for retaliation), treble damages for willful violations, attorney’s fees and costs, violation equals breach of contract with the City. The Designated Administrative Agency may recommend that the City debar the employer from future City contracts, leases, and licenses for three years, request the City attorney to bring a civil action (through which the City can seek payment of all unpaid wages or health premiums and a fine of \$100 for each violation for each day the violation remains uncured.

Portland

Minimum No. of Employees: No minimum

Businesses: Janitorial, security, and parking attendant services

Offsite: No

Grants: No

Loans: No

City Lease: No

Airport: No

Subcontracts: No

Subtenants: No

Wage: \$8.00 w/benefits, \$9.50 w/o (2001) adjusted with CPI

Vacation/Leave: No

Pay Equity: No

Waivers or Exemptions: No

Union/Collective Bargaining Exemption: No

Enforcement: Bureau based individual responsible for compliance

Penalties: None listed

Summary of Ordinance:

The City of Portland, Oregon's Fair Wages Policy applies to formal service contracts entered into by the City for janitorial, security, and parking attendant services. The minimum wage is set at \$8.00 per hour with a minimum total compensation of \$9.50 per hour, as of 2001. Compliance is monitored through submission of monthly certified payroll, mandatory employee notification of annual minimum wage and total compensation rates via on-site postings, and designation of a bureau-based individual responsible for compliance monitoring and complaint resolution.

New York

Minimum No. of Employees: No minimum

Offsite: Direct employees

Loans: No

Airport: No

Subtenants: No

Vacation/Leave: No

Waivers or Exemptions: Homecare, after school/summer employees, nonprofits

Enforcement: Comptroller

Businesses: Certain service contracts

Grants: No

City Lease: No

Subcontracts: City Service

Wage: \$9.10 w/benefits, \$10.60 w/o

Pay Equity: No

Union/Collective Bargaining Exemption: No

Penalties: Penalties, debarment

Summary of Ordinance:

The City of New York living wage ordinance applies to businesses who receive City contracts in the areas of homecare services, building service, day care services, head start services, services to persons with cerebral palsy, food services or temporary services where the value of the agreement is greater than the City's small purchases limit. Nonprofits are excluded, unless they perform one of the aforementioned services. The ordinance applies to subcontracts. There is no annual aggregate dollar amount for the ordinance to apply. The current wage is \$9.10 per hour with health benefits. If an employer does not provide health benefits there is a \$1.50 per hour supplement. The wage will increase incrementally to \$10.00 per hour on July 1, 2006. After school or summer employees or trainees who are under age 18 and dependents for tax purposes are also exempt. The Comptroller is responsible for monitoring and enforcement. Penalties include payment of back wages with interest, civil penalties, contract termination and debarment.

LEGAL CHALLENGES TO LIVING WAGE ORDINANCES

There have been relatively few legal challenges to living wage ordinances around the country. The first living wage ordinance was adopted in 1994. Ten of the fourteen ordinances we reviewed were enacted in the last five years. It is not surprising to find so few legal challenges since there has been relatively little time for cases to work their way through court systems. Below is a survey of relevant legal challenges and developments. This is not an exclusive list of legal challenges, but rather, a representative list of the types of challenges that have been brought.

New Orleans, Louisiana

The Louisiana Supreme Court simultaneously upheld a state statute prohibiting local governments from enacting minimum wage laws, and struck down the City of New Orleans' living wage ordinance. See New Orleans Campaign for a Living Wage v. City of New Orleans, 825 So.2d 1098 (La. 2002). The court held that the state statute prohibiting local governments from enacting minimum wage laws was a legitimate exercise of the state's police power and that the New Orleans living wage ordinance abridged that power. New Orleans is the only state we surveyed that has struck down the entire living wage ordinance.

St. Louis, Missouri

Voters in St. Louis, Missouri approved a living wage ordinance in August 2000. In November of 2000 business filed suit to block the ordinance. The trial court invalidated the ordinance, citing technical defects. The trial court explained how the defects could be remedied. The business groups who challenged the ordinance appealed the case to the Missouri Supreme Court. The Missouri Supreme Court dismissed the appeal. In 2002, St. Louis repealed and passed an amended living wage ordinance taking into consideration the trial judge's original

concerns. Amanda Cooper, St. Louis Free to Move Forward with New Living Wage Law; Missouri Supreme Court Dismisses Appeal from Low-Wage Employers (visited January 28, 2004) <http://www.brennancenter.org/presscenter/releases_2002/pressrelease_2002_0906.html>.

Santa Fe, New Mexico

A State District Judge has temporary blocked Santa Fe's living wage ordinance, which was passed in February 2003, until the legal challenge has been settled in court. Bob Quick, Judge Delays Wage Law, The New Mexican, December 19, 2003. That trial is expected to take place in April 2004. The main issue at trial will be whether the ordinance violates the state constitution by creating arbitrary and capricious classes of business owners based on factors such as business size and whether the work force is union or nonunion. Bob Quick, Judge Rejects Much of Wage Lawsuit, The New Mexican, December 11, 2003.

Other Legal Concerns

Stacey Abrams, Deputy City Attorney for the City of Atlanta, has identified several legal concerns with respect to the proposed Atlanta Ordinance. Memorandum from Stacey Abrams to Finance/Executive Committee on Summary of Proposed Atlanta Living Wage Ordinance Including Legal and Policy Concerns (May 6, 2003) (on file with author). The two main concerns are conflicts between the Atlanta Ordinance and Home Rule under O.C.G.A. § 36-35-6 and State Minimum Wage Law under O.C.G.A. § 34-4-3.